

Legal Issues



Civil and Criminal Liability

Staff Development and Training

YOU HAVE A DUTY

- ∞ To not deliberately harm others
- ∞ To use reasonable and ordinary care in your activities
- ∞ To not violate the rights of others



Performance Objectives

- ✎ Explain what is meant by the term: “reasonable and ordinary care”
- ✎ Identify what rights are protected under 42 United States Code, Section 1983
- ✎ Explain what is meant by the phrase: “deliberate indifference”
- ✎ Describe the 3 types of damages awarded in lawsuits

Tort Suits

- ✎ A civil, not criminal lawsuit
- ✎ A claim that one party has suffered injury because of the failure of a duty owed to them by another
- ✎ Monetary damages usually sought



Reasonable and Ordinary Care

- ∞ ...means using the same care and accepted methods that a reasonable person would use in the same circumstances.



Intentional Torts

- ✧ Assault
- ✧ Battery
- ✧ Defamation
- ✧ False Imprisonment
- ✧ Causing Emotional Distress



These involve deliberate actions.

Civil Rights Actions



- ⌘ Allegations that one party (usually the government) has violated the constitutional rights of another party and seek an end to such violations.

United States Code, Vol. 42, Section 1983

- ✎ Every person, who under color of any statute, ordinance, regulation, custom, or usage of any state or territory, subjects or causes to be subject, any citizen of the United States or any other person within jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for address.

Deliberate Indifference

- ∞ Deliberate Indifference is the intentional or deliberate disregard to a situation where the civil rights of another are at risk of being violated.



Legal Representation

- ✧ The Department of Correction shall ensure that staff are given full and complete access to legal counsel as provided by statute.



Good Faith



- ∞ Absence of fraud
- ∞ Absence of deceit
- ∞ Absence of intentional misconduct
- ∞ Absence of personal, criminal, or evil intent

Damages



∞ NOMINAL

- [token amount (\$1.00), violation occurred, no damage]

∞ COMPENSATORY

- [compensate actual loss]

∞ PUNITIVE

- [person acted with intentional misconduct or willful disregard for consequences of his/her actions or inactions]

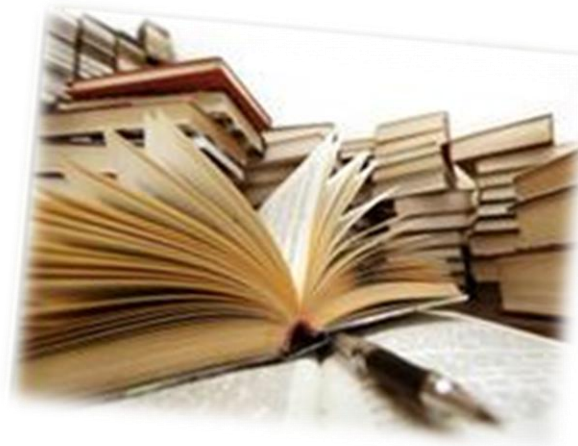
Criminal Liability

- ✂ Your volunteering with the Department of Correction will not insulate you from prosecution for criminal acts.
- ✂ The Attorney General cannot represent you if you are charged with a criminal act.



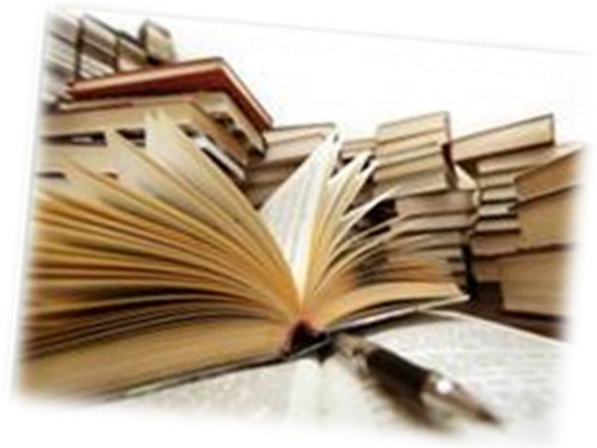
Ways to Avoid Liability

- ∞ Follow written and verbal instructions carefully.
- ∞ When in doubt, seek clarification.
- ∞ Review rules and procedures regularly.
- ∞ Be sure you know what is expected of you.



Ways to Avoid Liability

- ✧ Maintain good records.
- ✧ Report all unusual occurrences and document your reporting of these.
- ✧ Take prompt corrective action if a policy and procedure is violated or ignored.
- ✧ Request written order from supervisor when verbal is contrary to rules or laws.



You have completed the module on,
“Legal Issues: Civil & Criminal Liability.”

If you have any questions, please contact
your Community Services Coordinator.



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